

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
WALKER RIVER PAIUTE TRIBE,)
)
Plaintiff-Intervenor,)
vs.)
)
WALKER RIVER IRRIGATION DISTRICT,)
a corporation, et al.,)
)
Defendants.)
_____)
MINERAL COUNTY,)
)
Proposed-Plaintiff-Intervenor,)
vs.)
)
WALKER RIVER IRRIGATION DISTRICT,)
a corporation, et al.,)
)
_____)
Proposed Defendants.)

IN EQUITY NO. C-125-RCJ-WGC
Subproceeding: C-125-C

3:73-CV-00128-RCJ-WGC

**Proposed ORDER REGARDING
SERVICE AND FILING IN
SUBPROCEEDING C-125-C ON
AND BY UNREPRESENTED
PARTIES**

INTRODUCTION

The Court is addressing case management issues related to Subproceeding C-125-C. You are receiving this Order because you are a defendant in Subproceeding C-125-C who filed a Notice of Appearance in this matter and are not represented by an attorney (hereafter, “Unrepresented Parties”).

The purpose of this Order is to identify and implement the alternative methods described herein to: 1. serve documents on Unrepresented Parties; and 2. Allow Unrepresented Parties to file documents.

BACKGROUND

Almost 1,000 parties who are not represented by an attorney have filed a Notice of Appearance and Intent to Participate subproceeding C-125-B, which is a related subproceeding to this C-125-C subproceeding within the overall C-125 Walker River Decree proceeding. Because of the large number of Unrepresented Parties in that subproceeding, the Court has identified a need for an effective and efficient method for the Court, as well as all parties, to serve documents on Unrepresented Parties and to allow Unrepresented Parties to file documents in that subproceeding.¹ Twenty-two (22) parties who are not represented by an attorney have filed a Notice of Appearance and Intent to Participate in this subproceeding (C-125-C). While there are fewer unrepresented parties in subproceeding C-125-C than subproceeding C-125-B, in the interest of maintaining procedural consistency between the two subproceedings, the Court has determined that it is appropriate to establish the same method for service and filing of documents with regard to unrepresented parties in this subproceeding as in subproceeding C-125-B.

Unrepresented Parties are rarely allowed to use the Court's Case Management/Electronic Case Filing system ("CM/ECF System"). Use of the CM/ECF System is generally limited to attorneys representing a party, who are required to file and receive all documents using this electronic system.² As a result, service of documents upon Unrepresented Parties must be accomplished by another means. Typically, Unrepresented Parties are served by mail. While the

¹ Once service of process under Rule 4 of the Federal Rules of Civil Procedure is finished, Rule 5 addresses whether, when, and how subsequent filings and Orders may be served. Service generally is not required on parties that have failed to appear. *See* F.R.C.P. 5(a)(2).

² Registered users do not receive paper copies of filings by mail because the CM/ECF System sends them e-mail notice of all filings with a link to an electronic copy of the document in the CM/ECF system. Use of the CM/ECF System is easy, efficient and economical. This Order does not change the requirement that attorneys use the CM/ECF System.

cost of copying and mailing a document is not significant when a case includes only a few Unrepresented Parties, the cumulative cost is significant when large numbers of Unrepresented Parties must be served. There are almost 1,000 Unrepresented Parties in Subproceeding C- 125-B, which means that the costs of mailing each and every Order or filing will be extremely expensive. While the Court is concerned with the cost to the judiciary, of greater concern is that the cost of serving documents by mail might impede the participation of all parties to this matter, particularly Unrepresented Parties in that subproceeding.

Although a party's consent is generally needed for electronic service, the Local Rules of this Federal Court allow papers to be filed, signed or verified by electronic means as long as the court allows "reasonable exceptions." Nevada Local Rules 5-3 and 5-4 allow electronic filing and service pursuant to Special Order No. 109. Under Special Order No. 109, the U.S. District Court in Nevada requires all cases and proceedings filed on or after January 1, 2006, to be assigned to the electronic filing system. In addition, the Court may amend the Electronic Filing Procedures in Special Order No. 109 "in keeping with the needs of the Court."

FINDINGS AND CONCLUSIONS

Accordingly, and based upon the foregoing, the Court finds that:

1. The alternative methods addressed in this Order for electronic service on Unrepresented Parties and filing by such parties through the Clerk's Office are in keeping with the needs of the Court, and consistent with the Federal Rules of Civil Procedure, the Local Rules of this Court, and Special Order No. 109;
2. The procedure set forth herein for Unrepresented Parties to request to be on the Court's "Mail-Only" List, including the conditions for them to remain on the "Mail-Only" List, is a reasonable exception to electronic service; and

3. The additional limited use of the CM/ECF System and the establishment and maintenance of the public website described below will not overburden the Court staff.

ORDER

NOW, THEREFORE, **It Is Hereby Ordered** that:

Establishment of a Public Website:

1. The Clerk of the Court will establish and maintain a website that is separate from the Court's official docket and available to the public, on which the Clerk will post Orders and other filings in Subproceeding C-125-C.

2. This separate public website may be accessed directly at: ecf.nv.uscourts.gov/casedisplay or by selecting "Walker River" on the District of Nevada's official website: www.nvd.uscourts.gov.

Service on Unrepresented Parties:

3. **Electronic Service:** If an Unrepresented Party consents to electronic service as hereinafter provided, that party will receive an e-mail from the Court's CM/ECF system each time a document is filed in this matter that includes a link to the public website where the party may view, print and/or save the filing at no cost. You may wish to create a new e-mail address to receive notice from the CM/ECF System that is separate from your personal or other e-mail addresses.

4. **"Mail-Only" List:** In the rare situation where an Unrepresented Party is unable to receive electronic service, and is approved by the Court to be on a "Mail-Only" List, the Court at a later date will determine the nature and scope of what is to be served upon "Mail-Only" parties, and what "Mail-Only" parties must serve on other "Mail-Only" parties.

5. The Court, at a later date, will determine the extent to which defendants must serve other defendants, whether represented or unrepresented.

6. **If any Unrepresented Party fails either to consent to electronic service or be approved for the “Mail-Only” List, that party shall be deemed to have consented to opt out of service, to have agreed to receive subsequent notice of all filings in this matter by taking the responsibility to check the public website by selecting “Walker River” on the Court’s website (www.nvd.uscourts.gov) or by accessing the public website directly (ecf.nv.uscourts.gov/casedisplay).** All such parties shall be deemed to have received notice of all subsequent Orders and other filings in Subproceeding C-125-C.

Filings by Unrepresented Parties:

7. Unrepresented Parties may file documents in Subproceeding C-125-C by mail or in person with the Clerk of the Court at:

Clerk of the Court, Bruce R. Thompson Courthouse
400 S. Virginia Street, Room 301
Reno, Nevada 89501

8. In connection with all such filings, Unrepresented Parties must follow the Local Rules for the District Court of Nevada, which are available through the Court’s official website (www.nvd.uscourts.gov) and at the Clerk’s Office.

Changes of Address and/or E-mail:

9. All Unrepresented Parties who elect to receive electronic notice of filings as described herein, must notify the Court if their mailing and/or e-mail addresses change.

10. All Unrepresented Parties who are approved for the “Mail-Only” List must notify the Court if their mailing address changes.

11. Notice of all e-mail and/or mailing address changes must be sent to the Court at:

U.S. District Court Clerk, Attn. C-125-C Notice Clerk
Bruce R. Thompson U.S. Courthouse
400 S. Virginia Street, Room 301
Reno, Nevada 89501

12. Unrepresented Parties who fail to notify the Court of mailing or e-mail address changes and who, as a result of such failure, do not receive a filed document will nevertheless be deemed to have notice of that document and all subsequent orders and other filings in this matter.

Clerk of the Court to Mail this Order to All Unrepresented Parties:

13. The Clerk of the Court shall mail a copy of this Order to all Unrepresented Parties that it and Mineral County have identified as of ____date____. Thereafter, the Clerk of the Court shall mail a copy of this Order to any Unrepresented Parties identified after that date on a periodic basis. When the Clerk's Office makes these periodic mailings, it shall insert a due date for the Unrepresented Parties to return the **Notice Selecting Method of Service** that is at least thirty days after the mailing date. Mineral County shall assist the Clerk's Office with compiling the initial list of persons and entities to receive a copy of this Order and all additional such lists for the subsequent periodic mailings.

Required Form to Complete and Return to the Court:

14. All Unrepresented Parties **must** complete either Part I or Part II of the attached **Notice Selecting Method of Service** ("Notice"), and return it to the Court at the address provided in paragraph 14 below no later than ____ (date) ____.

15. The completed **Notice of Selecting Method of Service** shall be returned to:

U.S. District Court Clerk, Attn: C-125-C Notice Clerk
Bruce R. Thompson U.S. Courthouse
400 S. Virginia Street, Room 301
Reno, Nevada 89501

16. Any Unrepresented Party who elects not to register for electronic notice of filings of documents and does not complete Part I of the attached **Notice** must request to be on the Court's "Mail-Only" List, and complete Part II of the same **Notice**.

17. **Any Unrepresented Party who fails to complete and return the attached Notice shall be deemed to have consented to receive subsequent notice and service of all filings in this matter by taking responsibility to check the public website at www.nvd.uscourts.gov and shall be deemed to have received notice of all subsequent orders and other filings in this matter.**

18. Unrepresented Parties needing assistance with the electronic notice and/or filing procedures provided for herein are encouraged to contact the Clerk of Court at 775-686-5800, 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding federal holidays.

19. Unrepresented Parties are encouraged to keep a copy of this Order and a copy of their completed **Notice Selecting Method of Service** for future reference.

20. The Court encourages all Unrepresented Parties to consent to electronic service because e-mail notice is prompt, helps keep parties apprised of the proceeding's status, and avoids significant mailing expenses. The Court appreciates your careful attention to this Order.

DATED: _____, 2013.

UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
WALKER RIVER PAIUTE TRIBE,)
)
Plaintiff-Intervenor,)
vs.)
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WALKER RIVER IRRIGATION DISTRICT,)
a corporation, et al.,)
)
Defendants.)
_____)
MINERAL COUNTY,)
)
Proposed-Plaintiff-Intervenor,)
vs.)
)
WALKER RIVER IRRIGATION DISTRICT,)
a corporation, et al.,)
)
_____)
Proposed Defendants.)

IN EQUITY NO. C-125-RCJ-WGC
Subproceeding: C-125-C

3:73-CV-00128-RCJ-WGC

**NOTICE SELECTING METHOD
OF SERVICE**

To the C-125-C Notice Clerk:

I am a Defendant in Subproceeding C-125-C of the Walker River Litigation who filed a
Notice of Appearance and am not represented by an attorney. I hereby respond to the Court's

**ORDER REGARDING SERVICE AND FILING IN SUBPROCEEDING C-125-C ON
AND BY UNREPRESENTED PARTIES.**

**Instructions to complete this form: You must: (1) Fill out either part I or part II of this
Notice AND (2) Mail the completed form to the Court at the following address, no later
than [***date***].**

U.S. District Court Clerk, Attn.: C-125-C Notice Clerk
Bruce R. Thompson U.S. Courthouse
400 S. Virginia St., Room #301
Reno, NV 89501

* * * * *

PART I. Consent for Electronic Service of Documents:

COMPLETE PART I **ONLY** IF YOU ARE REGISTERING FOR ELECTRONIC DELIVERY OF DOCUMENTS.

I elect to receive electronic service of documents by filling out Part I of this form. By completing the following registration, I consent to receive electronic delivery of documents pursuant to the Federal Rules of Civil Procedure from the Court's electronic filing system ("CM/ECF System"). This consent is limited to documents filed in the Subproceeding C-125-C in which I am a defendant and consists of electronic notice of any Order or other filing with a link to the filed document and docket sheet on a separate website. By completing this registration, I also agree to abide by the requirements stated herein and in the Court's *ORDER Regarding Service and Filing In Subproceeding C-125-C On and By Unrepresented Parties*. I understand that if my address and/or e-mail address change, it is my responsibility to notify the Court in writing of my new address and/or e-mail address, as applicable, and that if I fail to do so, I will nevertheless be deemed to have notice of all subsequent Orders and other filings in Subproceeding C-125-C.

Name: (Please Print) _____

Telephone Number: _____

E-mail Address: _____

Confirm E-mail Address: _____

Mailing Address: _____

I declare under the penalty of perjury that the above is true and correct.

Signature: _____

Date: _____

Address to mail Notice and any changes of mailing and/or e-mail address:

U.S. District Court Clerk, Attn.: C-125-C Notice Clerk
Bruce R. Thompson U.S. Courthouse
400 S. Virginia St., Room #301
Reno, NV 89501

PART II. "Mail-Only" Request Form:

COMPLETE PART II **ONLY** IF YOU ARE REQUESTING THE COURT TO APPROVE INCLUDING YOU ON THE "MAIL ONLY" LIST.

I request to continue to receive service by mail by filling out Part II of this form.

I understand that if my address changes, it is my responsibility to notify the Court in writing at the below address of my new address, and that if I fail to do so, I will nevertheless be deemed to have notice of that document and all subsequent Orders and other filings in Subproceeding C-125-C.

I understand the Court may require additional information from me to address my request and that the Court has exclusive authority to determine whether I should be on the "Mail-Only" list and will advise me of its decision.

Check One:

_____ I do not have access to a computer and the Internet at home, do not have a portable computer from which I can access the Internet at other locations, **and** am prohibited from using any computer at work for personal business.

_____ Other (Please Explain) _____

Name: (Please Print) _____

Telephone Number: _____

Mailing Address: _____

I declare under the penalty of perjury, pursuant to 28 U.S.C. §1746, that the above is true and correct.

Signature: _____

Executed on date: _____

Address to mail "Mail-Only" request and any changes of mailing address:

U.S. District Court Clerk, Attn.: C-125-C Notice Clerk
Bruce R. Thompson U.S. Courthouse
400 S. Virginia St., #301
Reno, NV 89501